

AGREEMENT OF PURCHASE AND SALE

1st THIS AGREEMENT OF PURCHASE AND SALE ("Agreement") is made as of the day of February, 2019 (the "Effective Date," which shall be the date that the later of Seller or Purchaser execute this Agreement) by and between the City of Dexter, Michigan whose address is 8123 Main Street, Dexter, MI 48130 ("Seller"), and Avalon Housing, Inc., a Michigan nonprofit whose address is 1327 Jones Dr., Suite 102, Ann Arbor, MI 48105 ("Purchaser").

R E C I T A L S:

A. Seller is the owner of certain real property located in Dexter, Michigan, more particularly described and/or depicted on Exhibit A attached hereto and incorporated herein by reference, to be referred to as the "Property."

B. Seller has agreed to sell and Purchaser has agreed to purchase the Property subject to and upon the terms and conditions of this Agreement.

C. Seller and Purchaser acknowledge that the Property is a vacant parcel of land.

NOW, THEREFORE, for the mutual covenants and benefits and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Seller and Purchaser agree as follows:

1. Basic Provisions. The following words and phrases, set forth in alphabetical order, are hereby defined for use in subsequent provisions of this Agreement.

(a) **Closing**: The consummation of the transaction as contemplated in this Agreement shall be referred to as the "Closing."

(b) **Commitment**: A commitment for an ALTA owner's policy of title insurance issued by the Title Company in an amount not less than the Purchase Price bearing a date later than the date of this Agreement committing the Title Company to insure Purchaser as the fee simple owner of the Property with such endorsements as Purchaser shall request.

(c) **Conditions**: The conditions precedent to Purchaser's obligation to purchase the Property, which Conditions are as follows:

(i) **Physical Condition**: Purchaser's satisfaction, in its sole and absolute discretion, with the soil bearing capacity, subsoil, wetlands, woodland and environmental condition of the Property and all other aspects of the Property and its intended use by Purchaser.

(ii) **Approval Condition**: Purchaser obtaining any and all approvals deemed appropriate by Purchaser, including but not limited to, financing, tax credit, grant and investment partner approvals.

(iii) **Title Condition:** Purchaser's satisfaction, in its sole and absolute discretion, with the state of title to, and the survey of, the Property pursuant to Section 5 below.

(iv) **Representations and Warranties Condition:** All of Seller's representations and warranties contained herein shall be true and accurate in all material respects as of the date of Closing.

(d) **Deposit:** Deposit shall mean Five Thousand and no/100 Dollars (\$5,000) plus any interest thereon, as such amount may be increased pursuant to the terms of this Agreement.

(e) **Inspection Period:** The nine (9) month period commencing after the Effective Date.

(f) **Permitted Exceptions:** The encumbrances or exceptions to title shown in the Commitment to which Purchaser does not object, or which are otherwise allowed pursuant to this Agreement or which, with Purchaser's consent, are waived and accepted or insured over.

(g) **Purchase Price:** The Purchase Price is equal to One Hundred Eighty-Seven Thousand Five Hundred and 00/100 Dollars (\$187,500), unless reduced to reflect a lower appraised value, pursuant to Section 15(d)(iii).

(h) **Survey:** A certified ALTA survey of the Property containing such detail as Purchaser shall require in its sole discretion, certified to Purchaser, the Title Company and, if applicable, such lending institution or institutions as Purchaser shall desire, all to the extent Purchaser elects to obtain such a survey.

(i) **Title Company:** The title company shall be First American Title Company located at 100 Bloomfield Hills Parkway, Bloomfield Hills, MI 48034.

(j) **Public Hearing.** Prior to the submission of the Purchaser's tax credit application anticipated in October of 2019, the Seller shall conduct a public hearing seeking input from members of the general public with regard to the sale of Property.

2. **Sale and Conveyance.** On and subject to the terms and conditions of this Agreement, Seller agrees to sell the Property to Purchaser and Purchaser agrees to purchase the Property from Seller for the Purchase Price.

3. **Deposit.** Within ten (10) days after the Effective Date, Purchaser shall deliver the Deposit directly to Seller. In the event of Closing, the Deposit shall be returned to Purchaser upon tender by Purchaser of the necessary funds to close pursuant to this Agreement or credited towards the Purchase Price at Purchaser's election. In the event of the termination of this Agreement, the Deposit shall be refunded to Purchaser or delivered to Seller, all as provided for below.

4. **Conditions.** Purchaser's obligation to purchase the Property is expressly conditioned upon Purchaser's satisfaction, in its sole and absolute discretion, with the Conditions.

5. Evidence of Title.

(a) As evidence of title to the Property, Seller shall furnish the Commitment to Purchaser within fifteen (15) days after the Effective Date. The Commitment shall be delivered to Purchaser together with a legible copy of each document affecting the Property or which constitutes encumbrances against the Property or exceptions to Seller's or Purchaser's title to the Property. Purchaser shall have the right to obtain the Survey at Purchaser's cost. Purchaser shall have thirty (30) days after the date on which Purchaser has received the last of either the Commitment, the title documentation, or the Survey, within which to notify Seller of any matters of title or Survey to which Purchaser objects, and Seller shall have thirty (30) days from the date of such notification to cure such objections. Affirmative title insurance shall only be deemed a cure for such objections in the event Purchaser agrees to the same in writing.

(b) With respect to any other encumbrances or exceptions to which Purchaser may object, of which Seller is notified and which Seller does not eliminate within the aforesaid period, Purchaser shall elect, upon notice thereof to Seller, within fifteen (15) days after the expiration of Seller's aforesaid thirty (30) day period to eliminate such encumbrances or exceptions, either: (i) to waive its objections to and accept title subject to such encumbrances or exceptions; (ii) to terminate this Agreement, whereupon the Deposit shall be promptly returned to Purchaser, and this Agreement shall thereafter be of no further force or effect (except for the indemnification described in Section 6(d)). If Purchaser does not provide notice to Seller within such time period, Purchaser shall be deemed to have elected option (i)

6. Due Diligence and Inspection Period.

(a) Commencing on the Effective Date, Purchaser, its agents, representatives, employees and contractors, shall have the right to: (i) inspect and investigate the Property which may include, but shall not be limited to, site inspections, environmental site assessments and studies, and engineering studies; (ii) confirm the availability and adequacy of utilities adequate to service Purchaser's intended use of the Property; and (iii) review or consider any other matter which Purchaser deems appropriate in order to determine, in its sole and absolute discretion, whether Property is suitable for its purposes. During the Inspection Period, Purchaser shall have the right to apply for obtain approvals from all applicable authorities for rezoning, land use, utilities, environmental approvals, payment in lieu of taxes (PILOT), site plan and building permit requirements and such other approvals and permits as shall be required by Purchaser to develop and improve the Property for Purchaser's intended use (the "Approvals").

Notwithstanding the expiration of the Inspection Period, Purchaser shall not be obligated to purchase the Property until such time as Purchase receives a reservation of Low Income Housing Tax Credits for its contemplated development of the Property.

The Inspection Period may be extended for an additional period by mutual written agreement of Purchaser and Seller.

(b) Purchaser shall have the right, during the Inspection Period, to deliver to Seller notice that the Physical Condition has been satisfied or waived, failing of which, subject to the provisions of this Agreement, this Agreement shall be deemed terminated, the Deposit shall

immediately be returned to Purchaser and neither party shall, thereafter, have any further liability or obligation hereunder (except for the indemnification described in Section 6(d)). In the event Purchaser notifies Seller of its satisfaction with the Physical Condition, then, subject to satisfaction with the Approval Condition, the Title Condition, the Representations and Warranties Condition, and the receipt of a reservation of Low Income Housing Tax Credits for the contemplated development of the Property, the parties shall proceed to Closing, and thereafter, the Deposit shall be deemed non-refundable to Purchaser in the event of the subsequent termination of this Agreement, except in the event of the failure of any of the remaining Conditions or the termination of this Agreement in accordance with Sections 16 (Seller's default) and 23 (condemnation) below.

(c) In the event that Purchaser determines, in its sole and absolute discretion, reasonably or unreasonably, that the Physical Condition shall be unsatisfactory on or before the end of the Inspection Period, then, Purchaser shall have the right, at any time before the end of the Inspection Period, upon notice to Seller, to terminate this Agreement whereupon the same shall be deemed terminated, the Deposit shall be immediately refunded to Purchaser and neither party shall, thereafter, have any further liability or obligation hereunder (except for the indemnification described in Section 6(d)).

(d) Following the completion of its investigations of the Property, Purchaser shall restore the Property to its prior condition. Purchaser shall defend, indemnify, and hold Seller harmless from any expenses or damages Seller incurs as a result of Purchaser's investigations of the Property; notwithstanding anything to the contrary, this obligation shall survive the termination of this Agreement.

7. Entry. From and after the date of this Agreement, Purchaser and its representatives shall have the right and license to enter upon the Property to undertake such activities thereon reasonably required to enable Purchaser to investigate the condition of the Property and otherwise to satisfy itself with respect to the Conditions.

8. Seller's Authority. Seller warrants, represents and covenants to Purchaser as follows:

(a) Seller has the right to execute this Agreement. Neither the execution and delivery of this Agreement nor the consummation by Seller of the transaction contemplated hereby will (i) conflict with or result in a breach of or default under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement or other instrument or obligation to which Seller is a party or by which it or the Property is bound, or (ii) violate any order, injunction, decree, statute, rule or regulation applicable to Seller or the Property.

(b) There is no pending litigation involving or affecting all or any portion of the Property.

(c) Seller has not received any notice that the Property or any portion thereof is situated, used or operated in violation of any law, court order, regulation, ordinance or requirement of any city, county, state or other governmental authority.

9. Seller further represents to Purchaser as follows:

(a) No assessments have been levied against the Property which remain unpaid and, in the event of any such assessments, other than assessments initiated by Purchaser, Seller covenants to pay any and all of such assessments in full, that are due and payable, at or before Closing.

(b) Seller has received no notice and has no knowledge of any special assessments affecting the Property and no federal, state or local taxing authority has asserted any tax deficiency, lien or assessment against the Property which has not been paid.

10. Environmental Matters.

(a) Seller warrants and represents to Purchaser that the Property is not now and to Seller's knowledge has not ever been used for the purpose of disposal of, refining, generating, manufacturing, producing, storing, handling, treating, transferring, releasing, processing or transporting any petroleum, petroleum derived products and/or hazardous waste or hazardous substance and/or toxic waste or toxic substance, as such terms are defined in the Resource Conservation and Recovery Act of 1976, 42 USC 6901 et seq., as amended, the Comprehensive Environmental Recovery Compensation and Liability Act of 1980, 42 USC 9601 et seq., the Superfund Amendments and Reauthorization Act, Public Law 99 499 as amended, or any other federal, state or local environmental law, regulation, code or ordinance, and, to the Seller's knowledge, no pollutants, contaminants or hazardous or toxic wastes, substances or materials are present in, on or under the Property, the Property, other than those disclosed in writing to and acknowledged by the Purchaser. The Property does not contain any underground storage tanks in, on or under the surface of any portion of the Property, and the Property has never contained any such underground storage tanks.

(b) Seller agrees to provide any and all Environmental Reports it possesses regarding the Property. Seller also agrees to fully cooperate with Purchaser's Environmental Consultant in obtaining any approvals or submitting a Baseline Environmental Assessment to the Department of Environmental Quality (MDEQ) for the State of Michigan, if the Environmental Consultant recommends this course of action.

(c) The development of said Property is partly supported by federal funds, and pursuant to federal guidelines contained at 24 CFR §58.22 (f) for approval of those funds, closing on this Agreement is contingent on the completion of the federal environmental review process. The requirements of the federal guidelines, and those that may be required by the Michigan Department of Environmental Quality to comply with state and federal requirements must be satisfied before the closing on this Agreement.

11. Covenant of No Change. From and after the date of this Agreement through the Closing date, Seller shall not cause any material adverse change in the Property or the use thereof nor shall the Property have sustained any loss or damage which shall materially and adversely affect the potential development of the Property for its intended use by Purchaser.

12. Existing Materials. Within thirty (30) days after the date of this Agreement, Seller shall deliver to Purchaser copies of its most recent title insurance policies, surveys, site

plans, soils reports, environmental site assessment reports and engineering reports and the like with respect to the Property in Seller's possession and control.

13. **Zoning and Approval.** In connection with Purchaser's intended development of the Property, Seller acknowledges that the Purchaser will be seeking to rezone the Property in order for its intended use as affordable residential housing.

14. **Payment in Lieu of Taxes.**

In connection with Purchaser's intended development and use of the Property for affordable residential housing, Seller acknowledges that Purchaser intends to finance any improvements to the Property using Low Income Housing Tax Credits and will seek Seller's approval of a payment in lieu of taxes (PILOT) ordinance prior to the submission of an application for such tax credits.

15. **Closing.**

(a) The Closing on the Property shall occur within eight (8) months following the receipt of a reservation of Low Income Housing Tax Credits; provided, however, the Purchaser or Seller have the right to extend this term with no additional consideration for a period of six (6) months by providing written notice to the other. The Closing shall take place at the office of the Title Company, or such other mutually desirable location.

(b) If the application is not successful in the October 1, 2019 LIHTC funding round, this Agreement shall remain in effect and an application or applications will be filed in the next two tax credit rounds, the dates of which are currently estimated to be in the April 1, 2020, October 1, 2020, or such other date as may be established by MSHDA. If the application does not receive a tax credit award at the conclusion of the Spring 2021 tax credit round, inclusive of any appeals by Purchaser to MSHDA, but no later than September 30, 2021, this Agreement will terminate unless extended by the Parties in writing.

(c) At Closing, Seller shall execute and deliver the following:

(i) An affidavit stating that between the date of this Agreement and the Closing date, (A) Seller did not receive notice of, nor on the Closing date does it have any knowledge of, any change in any facts or circumstances which would make any of the warranties and representations set forth in this Agreement inaccurate, incomplete or misleading in any material respect, and (B) from and after the date hereof, Seller has not violated, nor on the date of Closing, shall it be in violation of, any of the covenants set forth in Section 11 above in any material respect.

(ii) An affidavit stating whether or not Seller is a foreign person or nonresident alien for purposes of Section 1445 of the Internal Revenue Code, ("Code") and, if Seller is a foreign person or nonresident alien for such purposes, Seller shall (and does hereby authorize Purchaser to) comply with the provisions of the Code as shall be applicable to Seller in such case.

(iii) A covenant deed ("Deed") conveying the Property to Purchaser together with a real estate transfer tax valuation affidavit, which Deed shall be subject only to the Permitted Exceptions.

(d) At Closing, Purchaser shall pay the Purchase Price to Seller, via certified check or federal wire transfer of funds or title company check, as adjusted by the adjustments provided below. Seller shall deliver the Deposit to Purchaser or credit it towards the Purchase Price, at Purchaser's election.

(e) Seller shall terminate all contracts for maintenance or other services to the Property as of Closing, except such contracts, if any, which Purchaser shall expressly agree in writing to assume, provided that all amounts due thereunder as of Closing shall be paid by Seller.

(d) At Closing, Seller and Purchaser shall mutually execute and deliver to one another the Closing Statement setting forth the following adjustments and prorations:

(i) Assessments, special or otherwise, that are due and payable against the Property as of the date of Closing (whether due in installments or otherwise) shall be paid in their entirety by Seller at or before Closing.

(ii) All recording fees for the Deed shall be paid by Purchaser. All transfer taxes, if any, shall be paid by Seller. Purchaser shall pay the Title Company closing fee.

(iii) Subject to the mutual written agreement of Purchaser and Seller, the Purchase Price shall be adjusted downward to the extent that the appraisal of the Property is not equal to the Purchase Price. If the parties do not reach written agreement as to any such adjustment within 10 days after receipt of the final appraisal, then either party may terminate this Agreement by written notice to the other. If neither party terminates this Agreement within 30 days after receipt of the final appraisal, pursuant to this provision, then the Purchase Price shall not be adjusted.

(e) At Closing, Seller shall deliver exclusive possession of the Property to Purchaser.

16. Default.

(a) If Purchaser shall default in the performance of its obligations under this Agreement, and such default shall continue for a period of Fifteen (15) days after notice of default from Seller to Purchaser, then provided Seller is not then in default under this Agreement, Seller shall be entitled to terminate this Agreement by giving written notice of termination to Purchaser, whereupon the Deposit shall be retained by Seller.

(b) If Seller shall default in the performance of its obligations under this Agreement, Purchaser shall be entitled either: (i) to terminate this Agreement by giving written notice of termination to Seller, whereupon the Deposit shall be promptly returned to Purchaser; or (ii) to seek specific performance, which shall be Seller's sole remedy.

(c) In any dispute over the terms of this Agreement, or default under it, the prevailing party shall be entitled to reimbursement of its costs incurred in seeking its remedies, including reasonable attorneys' fees.

17. **Miscellaneous.** This Agreement cannot be modified except by written instrument signed by both of the parties hereto. Section headings set forth herein are for convenience of reference and shall not be construed to interpret, limit or otherwise define the terms and conditions of this Agreement. This Agreement sets forth fully and completely the agreement of the parties with respect to the subject matter described herein and this Agreement shall be deemed to supersede any and all prior written or oral agreements relating to the subject matter described herein. This Agreement shall be binding upon and shall inure to the benefit of Seller, Purchaser and their heirs, representatives, successors, successors in interest and assigns. This Agreement shall be governed by the internal laws of the State of Michigan, both substantive and procedural.

18. **Assignability** Purchaser may assign this Agreement to an affiliated limited dividend housing association (as defined in Act 346 of Public Acts 1966, as amended).

19. **Waiver.** Purchaser reserves the right, at its sole option, at any time, to waive any of the Conditions. Any such waiver shall only be in writing and duly executed by Purchaser.

20. **Notices.** All notices, deliveries or tenders given or made in connection herewith shall be deemed completed and legally sufficient if mailed, by certified mail, return receipt requested or delivered by personal delivery or nationally recognized overnight courier service, effective upon posting to the United States Postal Service or such personal delivery service or such nationally recognized overnight courier service, to Seller: 8123 Main Street, Dexter, MI 48130. Copies of notices to Purchaser shall simultaneously be sent, via the same method of delivery used to send the same to Purchaser, to Avalon Housing Inc. at 1327 JONES DR., SUITE 102, ANN ARBOR, MI 48105 . Addresses may be changed during the term of this Agreement by notices among the parties.

21. **Brokers.** Seller and Purchaser each represent and covenant to the other that they have not utilized the services of any broker or finder in connection with this transaction.

22. **Execution.** This Agreement may be executed in any number of counterpart originals which, when taken together, shall be deemed to be one and the same instrument. Executed copies of this Agreement may be delivered via telecopy.

23. **Condemnation and Damage or Destruction.**

(a) In the event that notice of any action, suit or proceeding shall be given to Seller or Purchaser prior to the Closing for the purpose of condemning any portion of the Property which would materially interfere with Purchaser's intended use of the Property, in Purchaser's sole discretion, then, Purchaser shall have the right to terminate its obligations hereunder, notwithstanding anything herein contained to the contrary, by notifying Seller thereof within 15 days after receiving notice of such condemnation proceeding, and upon such termination, notwithstanding anything herein contained to the contrary, Purchaser shall receive an immediate refund of the Deposit, this Agreement shall terminate, and the parties shall have no

further liability to each other hereunder (except for the indemnification described in Section 6(d)). In the event Purchaser shall not elect to terminate this Agreement, or in the event such condemnation is not such as to permit Purchaser to terminate this Agreement in accordance with this Section, then Purchaser and Seller shall proceed with the transaction contemplated by this Agreement and, in the event of Closing, Purchaser shall receive all of the condemnation proceeds. Seller shall notify Purchaser immediately upon Seller's receipt of notice of, or information relating to, any threatened taking of any portion of the Property.

24. **Buy Back Provision**


If after Closing, the Purchaser is unable to secure a construction loan to finance the improvements to the Property; to receive an allocation of the low income housing tax credits; or is otherwise unable to construct an affordable residential rental development as contemplated in this Agreement, the Purchaser must offer to sell the Property to the Seller at the Purchase Price which Purchaser paid for the Property. The terms of this Section shall survive the Closing on the Property.

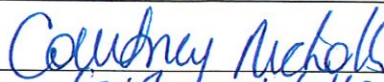
„[Balance of Page intentionally blank.]
[Signatures to Follow]

IN WITNESS WHEREOF, the parties have executed this Agreement.

SELLER:

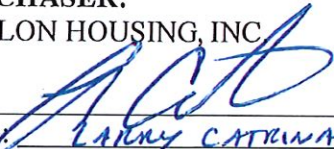
City of Dexter

By: 
Name: SHAWN W. KEOMALL
Its: MAYOR OF DEXTER

By: 
Name: Courtney Nichols
Its: City manager

PURCHASER:

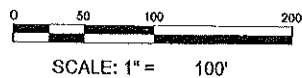
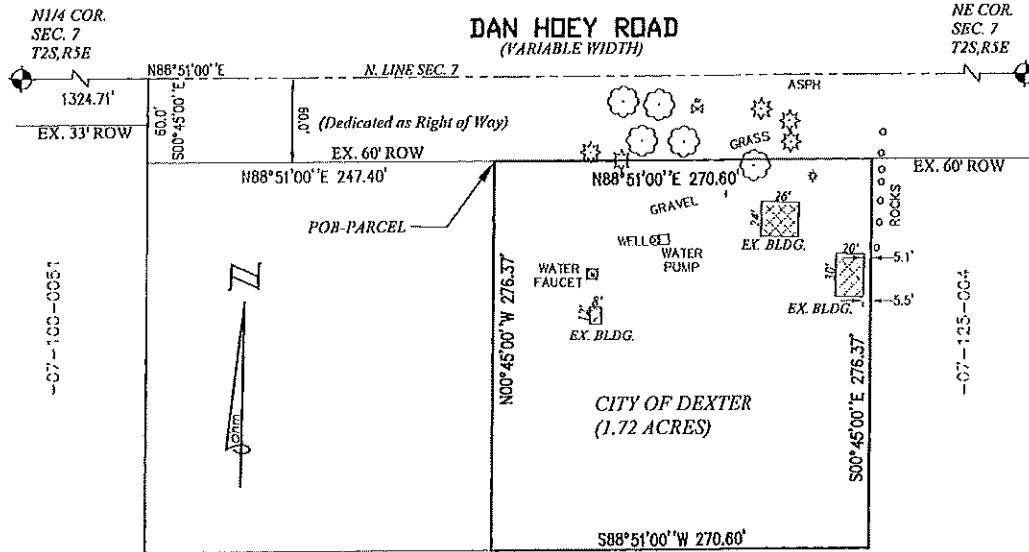
AVALON HOUSING, INC.

By: 
Name: LARRY CATRINAR
Its: ASSOCIATE DIRECTOR

Dated: February 1, 2019

EXHIBIT A

PARCEL SKETCH



LEGEND

ROW	RIGHT-OF-WAY
POB	POINT OF BEGINNING
*	FOUND IRON PIPE
⬢	PUBLIC LAND CORNER

PARCEL SKETCH
PART OF THE NE 1/4 OF SECTION 7
T.2S., R.5E., CITY OF DEXTER, WASHTENAW COUNTY

SCALE
N. 1/4 SEC. 7
SHEET
1
OF 2

DUE: 01-29-19 DATE: CITY OF DEXTER
34000 Plymouth Road | Livonia, MI 48150 | P (734) 522-6711 | F (734) 522-6427 | WWW.OHM-ADVISORS.COM

OHM

PARCEL DESCRIPTION

PARCEL DESCRIPTION

A parcel of land situated in the NE 1/4 of the Section 7, Town 2 South, Range 5 East, City of Dexter, Washtenaw County, Michigan, more particularly described as follows:

Commencing at the North 1/4 corner of said Section 7; thence N 88°51'00" E 1324.71 feet along the North line of said Section 7; thence S 00°45'00" E 60.0 feet; thence N 88°51'00" E 247.40 feet along the South right of way line of Dan Hoey Road to the Point of Beginning; thence continuing N 88°51'00" E 270.60 feet; thence S 00°45'00" E 276.37 feet; thence S 88°51'00" W 270.60 feet; thence N 00°45'00" W 276.37 feet to the Point of Beginning.

Contains 74,783 square feet or 1.72 acres of land, more or less. Subject to all easements and restrictions of record, if any.

PARCEL DESCRIPTION		SCALE IN. 1"=100'
PART OF THE NE 1/4 OF SECTION 7		SHEET 2
T.2S., R.5E., CITY OF DEXTER, WASHTENAW COUNTY		OF 2
DATE 01-29-19	CITY OF DEXTER	0130-16-0010
34000 Plymouth Road Livonia, MI 48150 P (734) 522-6711 F (734) 522-6427 WWW.OHM-ADVISORS.COM		
COPYRIGHT © 2019 OHM ADVISORS, LLC. ALL RIGHTS RESERVED. THIS DOCUMENT IS THE PROPERTY OF OHM ADVISORS, LLC. NO PART OF THIS DOCUMENT MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT PERMISSION IN WRITING FROM OHM ADVISORS, LLC.		

